

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: FONG, Mo-Han; IRAQI, Ali
Serial No.: 10/673,480
Filed: September 30, 2003
Title: MULTI-CARRIER LOAD BALANCING SCHEME FOR VOICE AND DATA
Group: 2617
Examiner: HOLLIDAY, Jaime
Attorney Ref.: PAT 2151-2 US

June 24, 2010

Commissioner for Patents
United States Patent and Trademark Office
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22314-1450
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PETITION TO THE DIRECTOR UNDER 37 CFR 1.182

Applicants hereby petition under 37 CFR 1.182 for review by the Director of the improper reopening and reconsideration of the instant application by the examiner, subsequent to a final determination by the Board of Patent Appeals and Interferences (BPAI) reversing all the examiner's rejections. The Fee under 37 CFR 1.17(f) is submitted.

1. BACKGROUND

- 1.1. This petition is not in response to any formal written correspondence received from the USPTO in regard to reopening or reconsideration of prosecution of the instant application.
- 1.2. On June 22, 2010, the undersigned reviewed the Electronic File Wrapper (EFW), and noted that prosecution of the instant application has been reopened subsequent to the final determination of the BPAI. As detailed below, a further search had been completed by the examiner, resulting in Reasons for Allowance that were based on a newly cited reference.
- 1.3. On June 22, 2010, the undersigned contacted Supervisory Patent examiner (SPE) Charles Appiah by telephone to discuss the circumstances leading to the reopening of prosecution. SPE Appiah advised that he did not consider the search outlined below

Adjustment Date: 11/18/2010 CKHLOK
06/25/2010 INTEFSW 00004640 141315 10673480
01 FC:1462 400.00 CR

5.2. Petitioner requests that this petition be granted.

5.3. Petitioner requests that:

5.3.1. the examiner's prior art search strategy and results subsequent to the BPAI decision be expunged from the file wrapper, or otherwise stricken from the record.

5.3.2. The examiner's search notes subsequent to the BPAI decision be expunged from the file wrapper, or otherwise stricken from the record.

5.3.3. The Notice of References Cited dated March 24, 2010 be expunged from the file wrapper, or otherwise stricken from the record.

5.3.4. Pages 2 - 5 of the Notice of Allowability be expunged from the file wrapper, or otherwise stricken from the record.

5.4. In the alternative, Petitioner requests that:

5.4.1. This petition be entered into the file wrapper as Comments on the Reasons for Allowance.

The Commissioner is hereby authorized to charge any additional fees, and credit any over payments to **Deposit Account No. 14-1315, in the name of Nortel Networks.**

Respectfully submitted,
FONG, Mo-Han, et al

Borden Ladner Gervais LLP
World Exchange Plaza
100 Queen Street, Suite 1100
Ottawa, ON K1P 1J9
CANADA
Tel: (613) 787-3519
Fax: (613) 787-3558
E-mail: akinsman@blgcanada.com

By: /Leslie A. Kinsman/
Leslie A. Kinsman
Reg. No. 45,291

ALK/mag

UNITED STATES PATENT & TRADEMARK OFFICE
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REQUEST FOR PATENT FEE REFUND				
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